IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.9.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.755 of 2007

Michael .. Petitioner

Vs.

1. The Secretary to the Government
   Prohibition and Excise Department
   Secretariat
   Chennai-600 009.

2. The Commissioner of Police
   Greater Chennai. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus calling for the records in connection with the order of detention passed by the second respondent dated 17.4.2007 in memo No.166/BDFGISSV/ 2007 against the Petitioners mother in law Mahalakshmi W/o. Chitti Babu, aged about 37 years who is confined at Special Prison for Women, Puzhal, Chennai and set aside the same and direct the respondents to produce the detenu before this Honourable Court and set her at liberty.

For Petitioner : Mr.V.Parthiban

For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

WEB COPY

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against Mahalakshmi, wife of Chittibabu, as the said authority arrived at the subjective satisfaction that the said detenue is a Bootlegger and she has to be detained under Section 3(1) of the

https://hcservices.ecourts.gov.in/hcservices/

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. The order of detention dated 17.4.2007 came to be passed by the second respondent on the basis of the ground case that is alleged to have occurred on 7.3.2007, when the Sub Inspector of Police, Prohibition Enforcement Wing, Washermenpet Unit and his police party proceeded on prohibition raid at Washermenpet area, they notice the detenue selling ID arrack. They apprehended the detenue, arrack was recovered in the presence of witnesses. A case was registered in Crime No.57 of 2007 on the file of the Washermenpet Prohibition Enforcement Wing for the offences punishable under Sections 4(1)(aaa), 4(1)(i) and 4(1-A) of the Tamil Nadu Prohibition Act. On chemical analysis, the Doctor opined that the arrack is mixed with 8.1 mg. of atrophine per 100 ml. arrack and the consumption of the same would cause danger to the life. The order of detention is also supported with four adverse cases against the detenue for the offences of alike nature.

3. Challenging the said detention, the son-in-law of the detenue has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records in connection with the order of detention passed by the second respondent dated 17.4.2007 in Memo No.166/BDFGISSV/2007 against the detenue, who is confined at Special Prison for Women, Puzhal, Chennai, to set aside the same, to direct the respondents to produce the detenu before this Court and to set her at liberty.

4. We have perused the materials available on record and heard the submissions of Mr.P.K.Sri Lokesh, learned counsel for the petitioner and Mr.N.R.Elango, learned Additional Public Prosecutor for the respondents.

5. From a perusal of the records it is clear even at the stage of requisition for remand extension dated 21.3.2007 made to the District Munsif-cum-Judicial Magistrate, Thiruvottiyur, the Sponsoring authority had stated that the detenue is required for detention under Tamil Nadu Act 14 of 1982 and in our considered opinion, the same would only show the pre-determination of mind on the part of the sponsoring authority. The detaining authority, while passing the order of detention, had failed to take notice of the predetermined averment made by the sponsoring authority. On this ground alone the Detention Order is liable to be set aside.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

The habeas corpus petition is accordingly allowed and the order of detention passed by the second respondent in proceedings dated 17.4.2007 against the detenue is quashed and the detenue is directed to be set at liberty forthwith from custody unless she is required in connection with any other case.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sasi

To:

1. The Commissioner of Police
   Greater Chennai.

2. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

3. The Public Prosecutor
   High Court, Madras.

4. The Superintendent
Special Prison for Women, Puzhal, Chennai.

5. The Joint Secretary to Government
Public (Law and order)
Department , Fort st. George,
Chennai-9.

H.C.P.No.755 of 2007

NG (CO)
kk 27/9

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/